

December 31, 2003

Docket Management System
U.S. Department of Transportation
Room Plaza 401
400 Seventh Street, SW
Washington, D.C. 20590-0001

Subject: *Federal Register* Notice Requesting Comment on the Imposition of the Aviation Security Infrastructure Fee

Dear Sir or Madam:

The Air Line Pilots Association, International (ALPA), which represents 66,000 pilots who fly for 42 airlines in the U.S. and Canada, has reviewed the subject request for comments published in the November 5, 2003, *Federal Register*. ALPA has a genuine interest and stake in decisions made about the future of the Aviation Security Infrastructure Fee (ASIF), because it has the potential to affect the economic stability of our members' employers, and their own livelihoods.

Airline Taxation and Security Fees

It should be obvious to the most casual observer that protection of airliners against hijackings, bombings, and other threats has become a national defense priority because of the national consequences that can occur if such protection is not afforded. Clearly, the attacks of September 11, 2001, had devastating effects on the U.S. economy and caused the nation to go to war on foreign soil, not to mention the loss and damage to buildings of national importance and more than 3,000 lives. While there has been recognition that the cost of some security measures used to protect commercial aviation should be borne by the federal government, more needs to be done.

Today, the airline industry is groaning under the enormous burden of federal user fees and taxes, to the extent that many airlines are in serious economic straits. Whereas in 1972, according to the Air Transport Association, about 7 percent of the price of an airline ticket for a single-connection round trip in the U.S. went to federal taxes, by 1992, the taxed amount of a ticket had jumped to 15 percent. Currently, airline passengers who buy a single-connection roundtrip ticket for \$200 can expect 25.6 percent of their ticket charge to go to the federal government in taxes and fees, while a similar trip for \$300 results in 19.4 percent going to the government. A comparable trip for \$100 gets taxed a whopping 44.2 percent.

The ATA says that airlines face a myriad of charges on passengers, fuel, cargo and now security. The federal government, for example, levies a passenger ticket tax of 7.5

percent of the base ticket price, a \$3 tax for each domestic flight segment, a passenger security surcharge of \$2.50 to a maximum of \$10, a passenger facility charge of \$4.50 to a maximum of \$18, an international departure tax of \$13.20, an international arrival tax of \$13.20, an immigration user fee of \$7, a Customs user fee of \$5, a cargo waybill tax of 6.25 percent, a frequent flyer tax of 7.5 percent, a jet fuel tax of 4.3 cents per gallon, and a leaking underground storage tank fuel fee of 1 cent per gallon.

Some U.S. government officials have criticized “bailing out” the airline industry as a result of the federal assistance that was provided in the wake of September 11, 2001. The real story, however, is that the airline industry pays \$11 billion a year in taxes and fees to the federal government; this begs the question, “who is bailing out whom?”

When the federal government wants the public to stop doing or using something, a hefty tax – a so-called “sin tax” – is assessed to discourage demand. As examples, cigarettes have an 18.2 percent federal tax, hard liquor is taxed at 10.7 percent, and a luxury vehicle is taxed at 3 percent. Based on the airlines’ taxation rate, one could assume that the federal government is desperate to discourage people from flying!

ALPA believes that airlines, like any other corporate enterprise, should pay their fair share of taxes and support the public infrastructure that they require to conduct business. However, the current tax rates are clearly excessive and are in significant measure responsible for the significant number of airlines in serious financial straits. The prevailing attitude that the airline industry is a “golden goose” that the federal government can use to fund government agencies and to artificially balance the budget must be changed, if this industry is to survive and provide the level of competition and service that the public demands.

Section 118 of the Aviation and Transportation Security Act says, in pertinent part, that the Under Secretary of Transportation for Security shall (emphasis added) impose [the September 11th Security fee]. That same section states, “that the Under Secretary may (emphasis added) impose [the ASIF] on air carriers and foreign air carriers . . .” Clearly, the TSA is not under obligation to impose the ASIF; the agency has other options to fund the provision of aviation security services.

Accordingly, we strongly recommend that the TSA opt against continued imposition of this user fee and bear the costs of providing any security screening services that are not covered by the congressionally mandated Security Fee through its own budgetary processes. This methodology will help place the responsibility for providing national defense and oversight with the federal government, where it rightly belongs.

Specific Comments

Should the TSA opt to continue its imposition of the ASIF on air carriers, we offer the following responses to questions posed in the subject *Federal Register* notice.

Question 1. Should there be an adjustment to the current system of determining each carrier's ASIF limitation based on its screening-related costs in calendar year 2000?

The CY 2000 cost cap was undoubtedly included in the ATSA because of Congressional concern, which we share, that imposition of this user fee could harm the struggling airline industry after September 11, 2001. We believe that if TSA continues to impose this user fee, it should not increase the limitation beyond those screening-related costs incurred in calendar year 2000.

Question 2. When should the ASIF be adjusted?

The ASIF should be eliminated immediately, or as soon as practical. If it is not abolished by 2005 when the ATSA-required cost cap is removed, it should be reduced not less frequently than annually until it is eliminated.

Question 3. How should the basis for the per-carrier limitation on imposition of the ASIF be determined?

If the ASIF is imposed on air carriers, the per-carrier limitation should be based on the services actually provided to each respective airline's passengers and employees who are screened at TSA-screening checkpoints. Basing the limitation on market share would result in considerable inequities, because that calculation will not always accurately reflect the number of times that passengers are screened. Passengers who change airplanes at a hub are normally only screened at the point of origin, but market share or other types of calculations could count the passenger more than once for ASIF purposes; this would penalize hub-and-spoke operations and grant an advantage to point-to-point operations.

Question 4. How often should the imposition of the ASIF be updated, based on the new factors?

TSA should continually examine whether the ASIF is needed, maintain a reasonable cost structure for its security-related services, and budget for shortfalls so that this fee may be eliminated.

ALPA appreciates the opportunity to comment on this important issue.

Sincerely,

Captain Steve Luckey, Chairman
National Security Committee